

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAS) NO.892 OF 2022
IN
SECOND APPEAL STAMP NO.13449 2022

M/s. Hagwood Commercial Developers Pvt. Ltd.

Vs.

Mr. Rahul Madhukar Deshmukh

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. D. Dewani, Advocate for applicant.
Mr. Kapil Hirani, Advocate for non-applicant.

CORAM : AVINASH G. GHAROTE, J.
DATE : 14/09/2022

1. Civil Application (CAS) No.892 of 2022 seeks condonation of delay in filing the appeal. Though the application is opposed by Mr. Hirani, learned counsel for the non-applicant, contending that though 100% of the amount awarded is required to be deposited, it has not been done. It is not in dispute that the order impugned herein was challenged in Writ Petition No.4068 of 2021, in which this Court by an order dated 12.8.2022, had granted leave to withdraw the petition to prefer an appeal under Section 58(1) of Real Estate (Regulation and Development) Act (RERA), in pursuance to which the present appeal has been filed. The provisions of Section 14 of the Limitation Act, therefore is attracted in the present matter, considering which, the delay is condoned.

2. Civil Application is allowed.
3. The office to register the Second Appeal.

Civil Application (CAS) No.893 of 2022

1. Civil Application (CAS) No.893 of 2022 seeks to stay and effect and operation of the order dated 16.10.2019 passed by the Maharashtra Real Estate Regulatory Authority under the Real Estate (Regulation and Development) Act (RERA). It is not disputed by Mr. Hirani, learned counsel for the non-applicant, that 40 % of the amount as awarded by the order dated 16.10.2019, has been deposited in this Court and invested. Considering the nature of things, it would be appropriate if an additional 10 % amount of what is awarded under the order dated 16.10.2019 over and above already deposited by the applicant in this Court, is deposited. Parties are ready to argue the matter finally at the stage of admission itself.

2. Mr. Hirani, learned counsel waives service of notice for the respondent for final disposal of the matter at the stage of admission, and requests to list the matter on 28.9.2022, considering which, upon deposit of an additional 10 % of the amount as awarded in the order dated 16.10.2019 in this Court by 23.9.2022, the order dated 16.10.2019 shall stand stayed till 28.9.2022.

(3)

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3. The Civil Application is allowed.
4. List the Second Appeal on 28.9.2022.

JUDGE

Sarkate